

105TH CONGRESS
2D SESSION

H. R. 3211

AN ACT

To amend title 38, United States Code, to enact into law eligibility requirements for burial in Arlington National Cemetery, and for other purposes.

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To amend title 38, United States Code, to enact into law eligibility requirements for burial in Arlington National Cemetery, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Arlington National
3 Cemetery Burial Eligibility Act”.

4 **SEC. 2. PERSONS ELIGIBLE FOR BURIAL IN ARLINGTON NA-**
5 **TIONAL CEMETERY.**

6 (a) IN GENERAL.—Chapter 24 of title 38, United
7 States Code, is amended by adding at the end the follow-
8 ing new section:

9 **“§ 2412. Arlington National Cemetery: persons eligi-**
10 **ble for burial**

11 “(a) PRIMARY ELIGIBILITY.—The remains of the fol-
12 lowing individuals may be buried in Arlington National
13 Cemetery:

14 “(1) Any member of the Armed Forces who
15 dies while on active duty.

16 “(2) Any retired member of the Armed Forces
17 and any person who served on active duty and at the
18 time of death was entitled (or but for age would
19 have been entitled) to retired pay under chapter
20 1223 of title 10, United States Code.

21 “(3) Any former member of the Armed Forces
22 separated for physical disability before October 1,
23 1949, who—

24 “(A) served on active duty; and

25 “(B) would have been eligible for retire-
26 ment under the provisions of section 1201 of

1 title 10 (relating to retirement for disability)
2 had that section been in effect on the date of
3 separation of the member.

4 “(4) Any former member of the Armed Forces
5 whose last active duty military service terminated
6 honorably and who has been awarded one of the fol-
7 lowing decorations:

8 “(A) Medal of Honor.

9 “(B) Distinguished Service Cross, Air
10 Force Cross, or Navy Cross.

11 “(C) Distinguished Service Medal.

12 “(D) Silver Star.

13 “(E) Purple Heart.

14 “(5) Any former prisoner of war who dies on or
15 after November 30, 1993.

16 “(6) The President or any former President.

17 “(b) ELIGIBILITY OF FAMILY MEMBERS.—The re-
18 mains of the following individuals may be buried in Arling-
19 ton National Cemetery:

20 “(1) The spouse, surviving spouse, minor child,
21 and, at the discretion of the Superintendent, unmar-
22 ried adult child of a person listed in subsection (a),
23 but only if buried in the same gravesite as that per-
24 son.

1 “(2)(A) The spouse, minor child, and, at the
2 discretion of the Superintendent, unmarried adult
3 child of a member of the Armed Forces on active
4 duty if such spouse, minor child, or unmarried adult
5 child dies while such member is on active duty.

6 “(B) The individual whose spouse, minor child,
7 and unmarried adult child is eligible under subpara-
8 graph (A), but only if buried in the same gravesite
9 as the spouse, minor child, or unmarried adult child.

10 “(3) The parents of a minor child or unmarried
11 adult child whose remains, based on the eligibility of
12 a parent, are already buried in Arlington National
13 Cemetery, but only if buried in the same gravesite
14 as that minor child or unmarried adult child.

15 “(4)(A) Subject to subparagraph (B), the sur-
16 viving spouse, minor child, and, at the discretion of
17 the Superintendent, unmarried adult child of a
18 member of the Armed Forces who was lost, buried
19 at sea, or officially determined to be permanently ab-
20 sent in a status of missing or missing in action.

21 “(B) A person is not eligible under subpara-
22 graph (A) if a memorial to honor the memory of the
23 member is placed in a cemetery in the national cem-
24 etery system, unless the memorial is removed. A me-
25 morial removed under this subparagraph may be

1 placed, at the discretion of the Superintendent, in
2 Arlington National Cemetery.

3 “(5) The surviving spouse, minor child, and, at
4 the discretion of the Superintendent, unmarried
5 adult child of a member of the Armed Forces buried
6 in a cemetery under the jurisdiction of the American
7 Battle Monuments Commission.

8 “(c) SPOUSES.—For purposes of subsection (b)(1), a
9 surviving spouse of a person whose remains are buried in
10 Arlington National Cemetery by reason of eligibility under
11 subsection (a), who has remarried is eligible for burial in
12 the same gravesite of that person. The spouse of the sur-
13 viving spouse is not eligible for burial in such gravesite.

14 “(d) DISABLED ADULT UNMARRIED CHILDREN.—In
15 the case of an unmarried adult child who is incapable of
16 self-support up to the time of death because of a physical
17 or mental condition, the child may be buried under sub-
18 section (b) without requirement for approval by the Super-
19 intendent under that subsection if the burial is in the same
20 gravesite as the gravesite in which the parent, who is eligi-
21 ble for burial under subsection (a), has been or will be
22 buried.

23 “(e) FAMILY MEMBERS OF PERSONS BURIED IN A
24 GROUP GRAVESITE.—In the case of a person eligible for
25 burial under subsection (a) who is buried in Arlington Na-

1 tional Cemetery as part of a group burial, the surviving
2 spouse, minor child, or unmarried adult child of the mem-
3 ber may not be buried in the group gravesite.

4 “(f) EXCLUSIVE AUTHORITY FOR BURIAL IN AR-
5 LINGTON NATIONAL CEMETERY.—Eligibility for burial of
6 remains in Arlington National Cemetery prescribed under
7 this section is the exclusive eligibility for such burial.

8 “(g) APPLICATION FOR BURIAL.—A request for bur-
9 ial of remains of an individual in Arlington National Cem-
10 etery made before the death of the individual may not be
11 considered by the Secretary of the Army or any other re-
12 sponsible official.

13 “(h) REGISTER OF BURIED INDIVIDUALS.—(1) The
14 Secretary of the Army shall maintain a register of each
15 individual buried in Arlington National Cemetery and
16 shall make such register available to the public.

17 “(2) With respect to each such individual buried on
18 or after January 1, 1998, the register shall include a brief
19 description of the basis of eligibility of the individual for
20 burial in Arlington National Cemetery.

21 “(i) DEFINITIONS.—For purposes of this section:

22 “(1) The term ‘retired member of the Armed
23 Forces’ means—

1 “(A) any member of the Armed Forces on
2 a retired list who served on active duty and who
3 is entitled to retired pay;

4 “(B) any member of the Fleet Reserve or
5 Fleet Marine Corps Reserve who served on ac-
6 tive duty and who is entitled to retainer pay;
7 and

8 “(C) any member of a reserve component
9 of the Armed Forces who has served on active
10 duty and who has received notice from the Sec-
11 retary concerned under section 12731(d) of title
12 10, of eligibility for retired pay under chapter
13 1223 of title 10, United States Code.

14 “(2) The term ‘former member of the Armed
15 Forces’ includes a person whose service is considered
16 active duty service pursuant to a determination of
17 the Secretary of Defense under section 401 of Public
18 Law 95–202 (38 U.S.C. 106 note).

19 “(3) The term ‘Superintendent’ means the Su-
20 perintendent of Arlington National Cemetery.”.

21 (b) PUBLICATION OF UPDATED PAMPHLET.—Not
22 later than 180 days after the date of the enactment of
23 this Act, the Secretary of the Army shall publish an up-
24 dated pamphlet describing eligibility for burial in Arling-
25 ton National Cemetery. The pamphlet shall reflect the pro-

1 visions of section 2412 of title 38, United States Code,
 2 as added by subsection (a).

3 (c) CLERICAL AMENDMENT.—The table of sections
 4 at the beginning of chapter 24 of title 38, United States
 5 Code, is amended by adding at the end the following new
 6 item:

“2412. Arlington National Cemetery: persons eligible for burial.”.

7 (d) TECHNICAL AMENDMENTS.—Section 2402(7) of
 8 title 38, United States Code, is amended—

9 (1) by inserting “(or but for age would have
 10 been entitled)” after “was entitled”;

11 (2) by striking out “chapter 67” and inserting
 12 in lieu thereof “chapter 1223”; and

13 (3) by striking out “or would have been entitled
 14 to” and all that follows and inserting in lieu thereof
 15 a period.

16 (e) EFFECTIVE DATE.—Section 2412 of title 38,
 17 United States Code, as added by subsection (a), shall
 18 apply with respect to individuals dying on or after the date
 19 of the enactment of this Act.

20 **SEC. 3. PERSONS ELIGIBLE FOR PLACEMENT IN THE COL-**
 21 **UMBARIUM IN ARLINGTON NATIONAL CEME-**
 22 **TERY.**

23 (a) IN GENERAL.—Chapter 24 of title 38, United
 24 States Code, is amended by adding after section 2412, as

1 added by section 2(a) of this Act, the following new sec-
2 tion:

3 **“§ 2413. Arlington National Cemetery: persons eligi-**
4 **ble for placement in columbarium**

5 “(a) ELIGIBILITY.—The cremated remains of the fol-
6 lowing individuals may be placed in the columbarium in
7 Arlington National Cemetery:

8 “(1) A person eligible for burial in Arlington
9 National Cemetery under section 2412 of this title.

10 “(2)(A) A veteran whose last period of active
11 duty service (other than active duty for training)
12 ended honorably.

13 “(B) The spouse, surviving spouse, minor child,
14 and, at the discretion of the Superintendent of Ar-
15 lington National Cemetery, unmarried adult child of
16 such a veteran.

17 “(b) SPOUSE.—Section 2412(c) of this title shall
18 apply to a spouse under this section in the same manner
19 as it applies to a spouse under section 2412.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 at the beginning of chapter 24 of title 38, United States
22 Code, is amended by adding after section 2412, as added
23 by section 2(c) of this Act, the following new item:

“2413. Arlington National Cemetery: persons eligible for placement in columba-
rium.”.

1 (c) EFFECTIVE DATE.—Section 2413 of title 38,
 2 United States Code, as added by subsection (a), shall
 3 apply with respect to individuals dying on or after the date
 4 of the enactment of this Act.

5 **SEC. 4. MONUMENTS IN ARLINGTON NATIONAL CEMETERY.**

6 (a) IN GENERAL.—Chapter 24 of title 38, United
 7 States Code, is amended by adding after section 2413, as
 8 added by section 3(a) of this Act, the following new sec-
 9 tion:

10 **“§ 2414. Arlington National Cemetery: authorized**
 11 **headstones, markers, and monuments**

12 “(a) GRAVESITE MARKERS PROVIDED BY THE SEC-
 13 RETARY.—A gravesite in Arlington National Cemetery
 14 shall be appropriately marked in accordance with section
 15 2404 of this title.

16 “(b) GRAVESITE MARKERS PROVIDED AT PRIVATE
 17 EXPENSE.—(1) The Secretary of the Army shall prescribe
 18 regulations for the provision of headstones or markers to
 19 mark a gravesite at private expense in lieu of headstones
 20 and markers provided by the Secretary of Veterans Affairs
 21 in Arlington National Cemetery.

22 “(2) Such regulations shall ensure that—

23 “(A) such headstones or markers are of simple
 24 design, dignified, and appropriate to a military cem-
 25 etery;

1 “(B) the person providing such headstone or
2 marker provides for the future maintenance of the
3 headstone or marker in the event repairs are nec-
4 essary;

5 “(C) the Secretary of the Army shall not be lia-
6 ble for maintenance of or damage to the headstone
7 or marker;

8 “(D) such headstones or markers are aestheti-
9 cally compatible with Arlington National Cemetery;
10 and

11 “(E) such headstones or markers are permitted
12 only in sections of Arlington National Cemetery au-
13 thorized for such headstones or markers as of Janu-
14 ary 1, 1947.

15 “(c) MONUMENTS.—(1) No monument (or similar
16 structure as determined by the Secretary of the Army in
17 regulations) may be placed in Arlington National Ceme-
18 tery except pursuant to the provisions of this subsection.

19 “(2) A monument may be placed in Arlington Na-
20 tional Cemetery if the monument commemorates—

21 “(A) the service in the Armed Forces of the in-
22 dividual, or group of individuals, whose memory is to
23 be honored by the monument; or

24 “(B) a particular military event.

1 “(3) No monument may be placed in Arlington Na-
 2 tional Cemetery until the end of the 25-year period begin-
 3 ning—

4 “(A) in the case of commemoration of service
 5 under paragraph (1)(A), on the last day of the pe-
 6 riod of service so commemorated; and

7 “(B) in the case of commemoration of a par-
 8 ticular military event under paragraph (1)(B), on
 9 the last day of the period of the event.

10 “(4) A monument may be placed only in those sec-
 11 tions of Arlington National Cemetery designated by the
 12 Secretary of the Army for such placement.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
 14 at the beginning of chapter 24 of title 38, United States
 15 Code, is amended by adding after section 2413, as added
 16 by section 3(b) of this Act, the following new item:

“2414. Arlington National Cemetery: authorized headstones, markers, and
 monuments.”.

17 (c) EFFECTIVE DATE.—The amendment made by
 18 subsection (a) shall apply with respect to headstones,
 19 markers, or monuments placed in Arlington National
 20 Cemetery on or after the date of the enactment of this
 21 Act.

22 **SEC. 5. PUBLICATION OF REGULATIONS.**

23 Not later than one year after the date of the enact-
 24 ment of this Act, the Secretary of the Army shall publish

1 in the Federal Register any regulation proposed by the
2 Secretary under this Act.

Passed the House of Representatives March 24,
1998.

Attest:

Clerk.